

## REMARKS

### 1. Introduction

Claims 1-50 and 54-69 are pending.

### 2. Double Patenting

Claims 1, 16, 48, 51, and 54 of the present application were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 16 of copending Application No. 10/684,222, (hereinafter referred to as "the '222 application"). Applicants submit a terminal disclaimer.

### 3. Rejections based on 35 U.S.C. §101

Claims 48-53 and 66-68 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicants amend claims 48-50 and 66-68 as believed appropriate. Applicants further cancel claims 51-53 without prejudice.

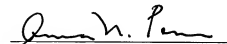
### 4. Rejections based on 35 U.S.C. §102

Claims 48-53 and 66-68 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2003/0179891 A1 (Rabinowitz et al). Applicants amend claim 48 to recite "instructions for statistically analyzing the predicted transfer functions" and "instructions for selecting a number of speakers for a speaker system from the potential number of speakers based on the statistical analysis." Applicants further amend claim 66 to recite "instructions for statistically analyzing the predicted transfer functions" and "instructions for selecting at least one type of speaker based on the statistical analysis." Applicants contend that the Rabinowitz reference fails to teach or even suggest these limitations. Therefore, the claims as currently presented are patentable over the cited art.

**5. Conclusion**

The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

  
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